

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CAPISTRANO UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2015040038

ORDER DENYING REQUEST FOR
CONTINUANCE WITHOUT
PREJUDICE

On April 6, 2015, Parents, on behalf of Student, filed with the Office of Administrative Hearings a request to continue the dates in this matter based upon Parents unavailability to attend the mediation due to a preplanned trip. Capistrano Unified School District has not responded and it appears that Parents did not serve District with a copy of the continuance request.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. All hearing dates and timelines shall proceed as calendared. Here, Student has requested a continuance of the medication and hearing dates, and OAH is inclined to grant the continuance. However, Parents did not contact District to

discuss and confer regarding new mediation and hearing dates as required by OAH. Forms are available on the OAH website that explain the procedure. The parties may re-submit the request to continue after they have agreed upon mediation and hearing dates. If the parties are unable to agree on hearing dates, they may request OAH to select dates.

IT IS SO ORDERED.

DATE: April 6, 2015

/s/

PETER PAUL CASTILLO
Presiding Administrative Law Judge
Office of Administrative Hearings